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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,467	02/12/2004	Jochen Hofmann	51900/DBP/M521	5554
23363 7590 07/11/2008 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER				
IDELL, JOSEPH T				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/779,467

**Applicant(s)**

HOFMANN ET AL.

**Examiner**

Joseph F. Edell

**Art Unit**

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 4,6,8,9,13 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,7,10-12,14-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 February 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 29 February 2008. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5, 7, 10-12, 14-24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,412,357 Billen in view of U.S. Patent No. 4,979,773 to Eubank.

Billen discloses a seat assembly that is basically the same as that recited in claims 1-3, 5, 7, 10-12, 14-24, 26, and 27 except that the seat assembly lacks a displacement arrangement, as recited in the claims. See Figure 4 of Billen for the teaching that a seat assembly has a seat element 210,212 comprising a component of a seat structure, an at least partially hollow cylindrical drive element 220,236 connected via section 230 to the seat element, and a weight sensor 218,222,230 (see column 6, lines 20-27) capable of detecting at least one of seat occupancy and the weight of a seat user wherein the drive element is pivotably mounted on the seat element via a

mounting section of the weight sensor, the mounting section extends axially inside at least one of the drive element and an element nonpivotably connected thereto, the drive element is pivotably mounted on the weight sensor through a mounting element 230 arranged on the drive element, the mounting element capable of being preassembled on the weight sensor using an axial locking element before the mounting element is nonpivotably connected to the drive element, the mounting section serves for radial mounting of the drive element, a locking element 234 for axial retention of the drive element arranged on the mounting section, the mounting section serves for radial and axial mounting of the drive element, the weight sensor being electrically operated and detects bending stresses, the weight sensor is arranged nonpivotably on the seat element via a lock nut 24 (see Fig. 1), the weight sensor being designed in two parts nonpivotably connected to each other, a sensor part is nonpivotably fixed to the seat element, the drive element and the weight sensor constitute a preassembled assembly capable of attaching to the seat element, and the seat element is made up of a mounting angle attached to part of the seat structure.

With respect to claim 15, Examiner is interpreting the mesh threaded areas of the drive tube 2 and sensor 3 as reading on the claim limitation "toothed zones." Billen teaches toothed zones of the nut and shaft (see Fig. 4) that mesh with each other and are capable of mounting the drive element on the mounting section.

Eubank shows a seat assembly similar to that of Billen wherein the seat assembly has a seat element 48 (see Fig. 2) that is a component of a seat structure of a motor vehicle seat, a cylindrical element 58 pivotably connected to the seat element and

being a component of a displacement arrangement for an adjustable part of the seat. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Billen such that the at least partially hollow cylindrical drive element is capable of pivot connection to the seat element and the drive element comprises a component of a displacement arrangement for an adjustable part of the motor vehicle seat, such as the seat assembly disclosed by Eubank. One would have been motivated to make such a modification in view of the suggestion in Eubank that the element connected to the seat element and being a component of the displacement arrangement of seat allows for the seat to fold to a stowed position.

With respect to claim 7 wherein Billen, as modified, does not specifically recite the material connection of the tubular drive element and the mounting element, modifying the material connection would have been obvious at the time of Applicant's invention because the use of preferred materials discovered by routine experimentation is ordinarily within the skill of the art. Further, it would have been an obvious matter of design choice to modify the material connection of the tubular drive element and the mounting element since the Applicant has not disclosed that having the specific material connection solves any stated problem or is for any particular purpose and it appears that the connection of the tubular drive and the mounting element would perform equally well with any known material used in the art.

4. Claims 25 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billen in view of Eubanks as applied to claims 1-3, 5, 7, 10-12, 14-24, 26, and 27 above, and further in view of U.S. Publication No. 2003/0067196 A1 to Sakamoto et al.

Billen, as modified, discloses a seat that is basically that same as that recited in claims 25 and 29 except that the tubular drive element lacks a transverse tube, as recited in the claims. Sakamoto et al. show a seat similar to that of Billen wherein the tubular drive element 20b (Fig. 1) has a transverse tube 28 (Fig. 4) running from one longitudinal side of the seat to the other, and a locking nut 27a (Fig. 4). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat of Billen such that the drive element has a transverse tube running from one longitudinal side of the seat to the other, such as the seat disclosed in Sakamoto et al. One would have been motivated to make such a modification in view of the suggestion in Sakamoto et al. that the transverse tube connects seat element spaced under the seat to maintain a predetermined width, and the lock nut and thread are used for securing connection of disparate pieces.

#### ***Response to Arguments***

5. Applicant's arguments filed 29 February 2008 have been fully considered but they are not persuasive. Applicant argues that the combination of Billen and Eubank is improper. Specifically, Applicant argues that the combination would destroy the function of Billen and would provide a mechanically unstable connection. With respect to the teachings of Billen, Examiner agrees that the bearing 220 is fixed to the lower frame

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wherein the gauge of spring 222 functions to measure a vertical force F. Examiner does not assert that the combination allows for the gauge taught by Billen to detect occupancy or weight at any other orientation other than when the guide slot 225 is vertically oriented. Eubank teaches the utility in having a vehicle seat assembly pivot from a user position into a stowed position. This stowed position is not intended to accommodate a seated user. Therefore, the combination allows for the user weight or seat occupancy to be detected when the seat structure is in the use position, such that the guide slot is vertically oriented, and to pivot to a stowed position, such that the guide slot is angled in a nonuse position. This combination would not destroy the function taught by Billen as detection occurs only when in the use position, such that the guide slot is vertically oriented. As there would be no need for weight or occupancy detection when the combination's seat assembly is in the stowed position, Applicant's assertion that Billen's device would no longer be able to correctly measure the occupant's weight is moot. Moreover, Applicant's assertion that the combination would cause the journal to wobble in the guide slot causing a mechanically unstable connection is without merit. Pivotal movement of combinations' seat assembly to the stowed position would not run the risk of wobbling as sliding movement of the journal along the guide slot occurs only in the use position wherein the guide slot is vertically oriented. Therefore, wobbling of Billen's journal appears just as likely as wobbling of the combination's journal. Moreover, Billen teaches the utility of having a cap 236 to enclose the weight sensor components such that the spring element 222 is withheld in the sensor configuration at all times.

Upon consideration of Applicant's arguments, Examiner maintains the rejection of claim 1-3, 5, 7, 10-12, 14-27, and 29.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should



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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/

Primary Examiner, Art Unit 3636

July 10, 2008